

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
1998 Biennial Regulatory Review –)	CC Docket No. 98-195
Repeal of Part 62 of the)	
Commission’s Rules)	

COMMENTS OF VIATEL, INC.

Pursuant to the Commission’s Notice of Proposed Rulemaking (“NPRM”) released November 17, 1998 in the above-captioned proceeding, Viatel, Inc. (“Viatel”), by its attorneys, submits these comments.

INTRODUCTION

The Commission’s proposal to repeal Part 62 is laudable and will reduce regulatory burdens that have become unnecessary in the increasingly competitive market for international telecommunications services.¹ Accordingly, Viatel strongly supports the repeal of Part 62 as well as all other related interlocking directorate reporting requirements that effectively would be repealed by the repeal of Part 62.

Viatel is a rapidly growing international telecommunications company providing high quality, competitively priced international and domestic long distance telecommunications services, primarily to small and medium-sized businesses, carriers and resellers. Viatel established an early presence in several key Western European countries to capitalize on the opportunities presented by full deregulation of the

¹ See 47 U.S.C. § 161(b) (requiring the Commission to repeal or modify any regulation it determines is no longer necessary in the public interest).

telecommunications industry, and the company is currently developing a state-of-the-art pan-European fiber optic ring known as the Circe Network.

ARGUMENT

I. THE COMMISSION'S PROPOSALS SHOULD BE ADOPTED PROMPTLY

The Commission has proposed to eliminate the Part 62 provisions that require:

(a) prior approval of interlocking directorates for dominant carriers,² (b) applications for findings of common ownership for dominant carriers,³ (c) post-interlock reporting requirements for non-dominant carriers,⁴ and (d) change in status reports.⁵

This proposed repeal eliminates burdensome regulation that has been rendered unnecessary by the current competitive climate and -- as the Commission notes in the NPRM -- duplicates other Title II provisions and the antitrust laws. Part 62 was promulgated in an era where the long distance market was dominated by a single service provider and the Commission determined that close scrutiny of interlocking directorates would help prevent anticompetitive behavior. Today's robustly competitive domestic market place for interstate, interexchange service, however, makes it exceedingly unlikely that an interstate carrier could use interlocking directorates to its competitive advantage. Moreover, as the Commission notes, there have been exceedingly few Part 62 applications filed, and those few filings have been unopposed, which further demonstrates that valuable Commission resources are being expended with no resulting

² 47 C.F.R. § 62.1.

³ *Id.* §§ 62.12, 62.25.

⁴ *Id.* § 62.26.

⁵ *Id.* § 62.24.

public interest benefit. The proposed repeal also will eliminate the unnecessary regulatory burdens, legal fees, and costs, direct and indirect, of compliance with Part 62 and related provisions and allow service providers to focus more resources toward prompt implementation of service.

For example, in preparation of a cable landing license application, Viatel recently had to confirm on an expedited basis that it had no interlocking directorates. Although Viatel's regular officer and director questionnaire for SEC purposes includes similar interlocking directorate questions, interlocks are defined very differently by the Commission. Accordingly, officers and directors are often unclear about which posts are subject to the various rules, making the confirmation process time consuming and frustrating, especially when a company is faced with a short timetable for a regulatory filing. For a fast growing, innovative company with limited resources, time would be better spent on speeding services to the marketplace rather than complying with outdated regulatory requirements that result in no measurable benefit to the public.

II. THE COMMISSION SHOULD CLARIFY THAT THE INTERLOCKING DIRECTORATE REPORTING REQUIREMENTS FROM OTHER PORTIONS OF ITS RULES ALSO WOULD BE REPEALED

The Commission's proposal includes the elimination of all Part 62 provisions.⁶ Although the proposed repeal implicitly repeals all other provisions of the Commission's rules which require reporting of interlocking directorates, such as Section 63.18(h)(2) regarding applications for international common carriers and Section 1.767(a)(6) regarding cable landing licenses, the NPRM does not specify that these provisions would

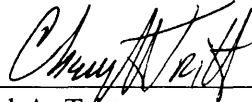
⁶ Although the NPRM addresses repeal of Part 62 in its entirety, *e.g.*, ¶1, the NPRM does not address specifically whether the definitions in Section 62.2 will be repealed. NPRM at ¶6. Viatel assumes this is an oversight and urges the Commission to ensure that the definitions set forth in Section 62.2 be included in the overall repeal of Part 62.

be eliminated. Clearly, these provisions should be eliminated for the same reasons the Commission set forth in the NPRM to support the repeal of Part 62. Accordingly, Viatel requests that the Commission clarify that the proposed repeal of Part 62 encompasses the elimination of all the interlocking directorate reporting requirements under the Commission's rules.

CONCLUSION

The Commission should adopt expeditiously its proposed repeal of Part 62 and all other interlocking directorate reporting requirements to permit the re-direction of Commission and carrier resources to the provision of services, with the corresponding benefits that this will bring to consumers.

Respectfully submitted,



Cheryl A. Tritt
Joan E. Neal
Cristina Chou Pauzé
MORRISON & FOERSTER^{LLP}
2000 Pennsylvania Avenue, N.W.
Suite 5500
Washington, D.C. 20006-1888
(202) 887-1500

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